

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT**

MICHAEL AKEY,
Plaintiff

v.

KAREN HAAG, PHIL DAMONE,
RODERICK BATES and
SAMANTHA CLARK,
Defendants

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File No. 1:05-CV-331

ORDER

The Magistrate Judge's Report and Recommendation was filed October 4, 2006 (Paper 20). The exhaustive decision has addressed all the parties' arguments. After de novo review and over objection, the Report and Recommendation is AFFIRMED, APPROVED and ADOPTED. See 28 U.S.C. § 636(b)(1). The defendants' motion to dismiss (Paper 15) is GRANTED in part and DENIED in part.

The motion to dismiss plaintiff's claims for damages against the defendants in their official capacities is GRANTED and those claims are DISMISSED. The motion to dismiss all claims against defendants Damone and Bates is GRANTED. Plaintiff's damages claims for mental and emotional distress are DISMISSED.

In all other respects, the defendants' motion to dismiss is DENIED.

This matter is returned to Magistrate Judge Niedermeier for further proceedings including consideration of the plaintiff's apparent request to amend his complaint. (Paper 22.)

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 3rd day of November,
2006.

/s/ J. Garvan Murtha
J. Garvan Murtha
United States District Judge